APPENDIX

Section 7 of the act of February 13, 1925 (43 Stat. 936, 940, 28 U. S. C., sec. 349) provides:

"That in any case in the Supreme Court of the Philippine Islands wherein the Constitution, or any statute or treaty of the United States is involved, or wherein the value in controversy exceeds $25,000, or wherein the title or possession of real estate exceeding in value the sum of $25,000 is involved or brought in question, it shall be competent for the Supreme Court of the United States, upon the petition of a party aggrieved by the final judgment or decree, to require, by certiorari, that the cause certified to it for review and determination with the same power and authority, and with like effect, as if the cause had been brought before it on [writ of error or][1] appeal; and, except as provided in this section, the judgments and decrees of the Supreme Court of the Philippine Islands shall not be subject to appellate review."

Section 7(6) of the act of March 24, 1934 (48 Stat. 456, 462, 48 U. S. C., sec. 1237(6)), provides:

"Review by the Supreme Court of the United States of cases from the Philippine Islands shall be as now provided by law; and such review shall also extend to all cases involving the constitution of the Commonwealth of the Philippine Islands."

Art. III, Section 1(1) of the Constitution of the Commonwealth of the Philippines, provides:

"No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

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[1] These words are obsolete because of the provisions of act of January 31, 1928, section 1 (45 Stat. 54, 28 U. S. C., sec. 861a) abolishing writs of error.

sustainable as one imposed upon the insured on the basis of premiums paid on a contract within the jurisdiction of the Commonwealth by reason of the fact that the insured and the property and risks covered are within the Philippines and certain activities in connection with the adjustment of losses are, under the contract, likely to be performed within the Philippines.

Conclusion.

For the foregoing reasons the respondent submits that the conclusion reached by the Supreme Court of the Philippines is correct and that, since the correctness of that conclusion is the only basis on which the petition is founded, the petition should be denied.

APPENDIX

Respectfully submitted,

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July 27, 1940.

APPENDIX

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Section 1(13) of the Ordinance appended to the Constitution of the Commonwealth of the Philippines provides:

> "The decisions of the courts of the Philippines shall be subject to review by the Supreme Court of the United States as now provided by law, and such review shall also extend to all cases involving the Constitution of the Philippines."

Section 79 of Act No. 2339 of the Philippine Legislature (9 P. I. Public Laws 296) provides:

> "*Tax on insurance premiums.*—There shall be collected from every person, company, or corporation (except purely cooperative companies or associations) doing insurance business of any sort in the Philippine Islands a tax of one per cent of the total premiums collected during each calendar year, whether paid in money, notes, credits, or any substitute for money, but premiums refunded within six months after payment on account of rejection of risk or returned for other reason to persons insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax."

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Section 172 of Act No. 2427 of the Philippine Legislature (10 P. I. Public Laws 29), provides:

> "After the becoming effective of this Act, no foreign or domestic insurance company shall transact any new business in the Philippine Islands until after it shall have obtained a certificate of authority for that purpose from the Insurance Commissioner. No such certificate of authority shall be granted to any such company until the Insurance Commissioner shall have satisfied himself by such examination as he may make and such evidence as he may require that such company is qualified by the laws of the Philippine Islands to transact business herein. Said

certificate of authority shall expire on the last day of June of each year and shall be renewed annually if the company is continuing to comply with all of the provisions of this chapter. Before issuing such certificate of authority, the Insurance Commissioner must be satisfied that the name of the company is not that of any other known company transacting a similar business, or a name so similar as to be calculated to mislead the public. Every company receiving any such certificate of authority shall be subject to the insurance laws of the Philippine Islands and to the jurisdiction and supervision of the Insurance Commissioner. An appeal may be taken from any decision of the Insurance Commissioner, refusing to grant such certificate of authority to the Secretary of Finance and Justice whose decision shall be final."

Section 192 of Act No. 2427 of the Philippine Legislature (10 P. I. Public Laws 37), as amended by section 1 of Act No. 2430 (10 P. I. Public Laws 43), section 2 of Act No. 2648 (11 P. I. Public Laws 312), and section 4 of Act No. 3575 (25 P. I. Public Laws 33), provides:

"It shall be unlawful for any person, company, or corporation in the Philippine Islands either to procure, receive, or forward applications for insurance in or to issue or to deliver or accept policies of or for any company or companies not having been legally authorized to transact business in the Philippine Islands, as provided in this chapter; and any such person, company, or corporation violating the provisions of this section shall be deemed guilty of a penal offense, and, upon conviction thereof, shall for each such offense, be punished by a fine of two hundred pesos, or imprisonment for two months, or both in the discretion of the court: *Provided,* That insurance in companies not authorized to transact business in the Philippine Islands may be placed upon terms and conditions as follows:

* * * * * *

"* * * *And provided further,* That the prohibitions of this section shall not affect the right of an owner of

property to apply for and obtain for himself policies in foreign companies in cases where said owner does not make use of the services of any agent, company, or corporation residing or doing business in the Philippine Islands. In all cases where owners of property obtain insurance directly with foreign companies, it shall be the duty of said owners to report to the Insurance Commissioner and to the Collector of Internal Revenue each case where insurance has been so effected, and shall pay the tax of one per centum on premiums paid, in the manner required by law of insurance companies, and shall be subject to the same penalties for failure to do so. * * *"